

STATE OF INDIANA) IN THE GRANT CIRCUIT COURT
)
)§:
COUNTY OF GRANT) CAUSE NO.:
) 27C01-2104-CT-000021
BILLIE J. OWEN,)
)
Plaintiff,)
)
MISSISSINEWA)
COMMUNITY SCHOOLS,)
)
Defendant.)

COMPLAINT FOR DAMAGES

COMES NOW, Plaintiff, Billie J. Owen, by counsel, Samuel L. Bolinger, and files her complaint for damages, and states:

1. This is a complaint for damages based upon age and disability discrimination.
2. Plaintiff, Billie J. Owen, is a 62 year old female with disabilities and for purpose, herein, was employed by Defendant as a para professional with a teacher license.
3. Defendant, Mississinewa Community Schools, is a school system with its headquarters at 426 East South "A" Street, Gas City, Indiana 46933, and for all purposes herein employed Plaintiff.
4. The Plaintiff filed a charge of discrimination with the Indiana civil Rights Commission, which a copy is attached hereto and marked as Exhibit A.
5. Defendant is an employer of over 100 employees in each calendar year and engages in interstate commerce and is subject to the Americans With Disabilities Act, as amended, and the Age Discrimination in Employment Act.
6. Plaintiff received a Notice of Right to Sue, which a copy is attached hereto and marked as

Exhibit B.

7. This Complaint is timely filed.
8. Plaintiff alleges against Defendant as follows:
 - a. She is 62 years of age, born in 1958;
 - b. She has disabilities and has provided information to Defendant;
 - c. She works as a paraprofessional with a teacher license;
 - d. Her immediate supervisor is Superintendent Tab McKenzie (now retired) who hired her in August 2014, and knew she had disabilities;
 - e. Plaintiff was told that if evaluations were given in 2020 she would receive a “Needs Improvement”;
 - f. Plaintiff’s 2019 evaluation stated that attendance and promptness is necessary for her to remain employed;
 - g. On November 6, 2020, Superintendent McKenzie told Plaintiff that she was not needed as a paraprofessional in the Indiana Academy or High School anymore;
 - h. Superintendent McKenzie also talked about Plaintiff’s age and her disabilities and wanting to end her career on a positive note instead of being fired and was offered a full-time paraprofessional sub position;
 - i. Mr. Quaderer agreed with Superintendent McKenzie at the November 6, 2020 meeting with Plaintiff;
 - j. Superintendent McKenzie and Mr Quaderer said Leslie Winter, Assistant Superintendent, agreed that this would be a good option. Ms. Winters was not at the meeting;

- k. There has been no contact with Ms. Winter, so her agreement is not known;
- l. Ms. Winter was selected as Superintendent in July 2020 and Superintendent McKenzie is to retire in August 2021;
- m. A new Assistant Superintendent has not been announced at this time;
- n. Plaintiff accepted sub position at the same pay, because if Plaintiff did not Superintendent McKenzie said Plaintiff would not have a job anymore;
- o. Plaintiff was also told for the past seven years people have complained about Plaintiff, never said anything positive and nobody at Mississinewa High School or the other two (2) Mississinewa Schools wanted Plaintiff around;
- p. Plaintiff never complained about her age discrimination;
- q. Plaintiff can perform her job duties with or without a reasonable accommodation;
- r. Plaintiff contends she has been discriminated against because of her age and disability in violation of the ADEA and ADA as amended

9. As a result of the above described conduct by Defendant, Plaintiff has suffered lost wages and benefits, humiliation, anxiety, stress, embarrassment and other injuries and damages, yet to be determined.

WHEREFORE, Plaintiff seeks compensatory damages and reasonable attorney fees, and for all other just and proper relief.

Respectfully submitted,

/s/ *Samuel L. Bolinger*
Samuel L. Bolinger, #10786-98
803 S. Calhoun St., Ste. 300
Fort Wayne, IN 46802
Tel: 260.407.0040
Fax: 260.407.0039
Counsel for Plaintiff

USDC IN/ND case 1:21-cv-00194-HAB-SJC document 1-1 filed 05/19/21 page 5 of 7 Grant Circuit Court

EEOC Form 5 (11/09)

CHARGE OF DISCRIMINATION This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.		Charge Presented To: <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC 470-2021-00496 INDIANA CIVIL RIGHTS COMMISSION <i>State or local Agency, if any</i>		Agency(ies) Charge No(s):															
INDIANA CIVIL RIGHTS COMMISSION <i>State or local Agency, if any</i>				and EEOC															
Name (indicate Mr., Ms., Mrs.) MS. BILLIE J OWEN		Home Phone (765) 674-3405		Year of Birth 1958															
Street Address 4820 S LINCOLN BLVD, MARION, IN 46953		City, State and ZIP Code																	
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)																			
Name MISSISSINEWA COMMUNITY SCHOOLS		No. Employees, Members 15 - 100		Phone No. (765) 674-8528															
Street Address 426 EAST SOUTH "A" STREET, GAS CITY, IN 46933		City, State and ZIP Code																	
Name		No. Employees, Members		Phone No.															
Street Address City, State and ZIP Code																			
DISCRIMINATION BASED ON (Check appropriate box(es).)																			
<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20%; text-align: center;"><input type="checkbox"/> RACE</td> <td style="width: 20%; text-align: center;"><input type="checkbox"/> COLOR</td> <td style="width: 20%; text-align: center;"><input type="checkbox"/> SEX</td> <td style="width: 20%; text-align: center;"><input type="checkbox"/> RELIGION</td> <td style="width: 20%; text-align: center;"><input type="checkbox"/> NATIONAL ORIGIN</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/> RETALIATION</td> <td style="text-align: center;"><input checked="" type="checkbox"/> AGE</td> <td style="text-align: center;"><input checked="" type="checkbox"/> DISABILITY</td> <td style="text-align: center;"><input type="checkbox"/> GENETIC INFORMATION</td> <td></td> </tr> <tr> <td colspan="5" style="text-align: center;"><input type="checkbox"/> OTHER (Specify)</td> </tr> </table>					<input type="checkbox"/> RACE	<input type="checkbox"/> COLOR	<input type="checkbox"/> SEX	<input type="checkbox"/> RELIGION	<input type="checkbox"/> NATIONAL ORIGIN	<input type="checkbox"/> RETALIATION	<input checked="" type="checkbox"/> AGE	<input checked="" type="checkbox"/> DISABILITY	<input type="checkbox"/> GENETIC INFORMATION		<input type="checkbox"/> OTHER (Specify)				
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<input type="checkbox"/> OTHER (Specify)																			
DATE(S) DISCRIMINATION TOOK PLACE Earliest 11-14-2020 Latest 11-14-2020																			
<input checked="" type="checkbox"/> CONTINUING ACTION																			
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)). I am 62 years old with disabilities. I work as a Paraprofessional with a teachers license. My immediate supervisor is Superintendent Tab McKenzie. Supt. McKenzie hired me in 8/2014, although he knew I had disabilities. I was told that if evaluations was given in 2020, I would have received a Needs Improvement. My 2019 evaluation stated that attendance and promptness is necessary for me to remain employed.																			
On 11/6/2020 Supt McKenzie told me that I was not needed as a paraprofessional in The Indian Academy or High School anymore. Mr. McKenzie talked about my age, my disabilities and wanting to end my career on a positive note instead of my being fired and that's why I was offered the full time paraprofessional sub position. This was in the meeting with Mr. Quaderer on November 6, 2020. Mr. Quaderer appeared to agree with him. Mr. McKenzie and Mr. Quaderer said Leslie Winter, Assistant Superintendent, agreed that this would be a good option. She was not in the meeting and there has been no contact with her so I don't know that she agrees or not. She has been selected to become Superintendent in July 2021. Mr.																			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY - When necessary for State and Local Agency Requirements																	
I declare under penalty of perjury that the above is true and correct.		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT																	
Digitally signed by Billie Owen on 01-26-2021 01:22 PM EST		SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE <i>(month, day, year)</i>																	

EXHIBIT A

EEOC Form 5 (11/09)

CHARGE OF DISCRIMINATION		Charge Presented To:	Agency(ies) Charge No(s):
<p>This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.</p>		<input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	470-2021-00496
INDIANA CIVIL RIGHTS COMMISSION			
<i>State or local Agency, if any</i>			
<p>McKenzie is retiring in August 2021. A new Assistant Superintendent has not been announced at this time. I accepted the sub position at the same pay, because if I didnt he said I would not have a job anymore. I was told for the past seven years people have complained about me, never said anything positive and nobody at Mississinewa High School or Northview Elementary School or the other two Mississinewa schools wanted me around.</p> <p>Principal, Steve Quaderer has always given me the impression he just put up with me hoping I would retire because of my age and disabilities. I never complained about age discrimination. I can perform my job duties with or without a reasonable accommodation.</p> <p>I believe that I have been discriminated against because of my age and disability in violation of the Age Discrimination in Employment Act and the Americans with Disabilities Act, as amended.</p>			

<p>I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.</p> <p>I declare under penalty of perjury that the above is true and correct.</p> <p>Digitally signed by Billie Owen on 01-26-2021 01:22 PM EST</p>	<p><i>NOTARY - When necessary for State and Local Agency Requirements</i></p> <p>I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.</p> <p>SIGNATURE OF COMPLAINANT</p> <p>SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)</p>
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DISMISSAL AND NOTICE OF RIGHTS

To: Billie J. Owen
4820 S Lincoln Blvd
Marion, IN 46953

From: Indianapolis District Office
101 West Ohio Street
Suite 1900
Indianapolis, IN 46204



On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

470-2021-00496

Marc A. Fishback,
Enforcement Supervisor

(463) 999-1179

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

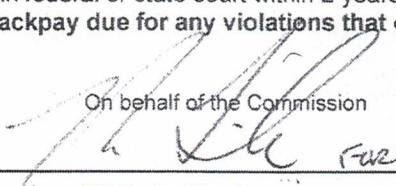
- The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.
- Your allegations did not involve a disability as defined by the Americans With Disabilities Act.
- The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.
- Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge
- The EEOC issues the following determination: The EEOC will not proceed further with its investigation, and makes no determination about whether further investigation would establish violations of the statute. This does not mean the claims have no merit. This determination does not certify that the respondent is in compliance with the statutes. The EEOC makes no finding as to the merits of any other issues that might be construed as having been raised by this charge.
- The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.
- Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed WITHIN 90 DAYS of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.



On behalf of the Commission

Enclosures(s)

Michelle Eisele,
District Director

(Date Issued)

1/31/21

cc:

Jill Townsend, Business Office Director
MISSISSINNEWA COMMUNITY SCHOOLS
424 E SOUTH A ST
Gas City, IN 46933